

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

<b>TINA M REYES</b> Claimant	68-0157 (9-06) - 3091078 - EI
<b>L A LEASING INC SEDONA STAFFING</b> Employer	<b>APPEAL NO. 06A-UI-10755-LT</b>  <b>ADMINISTRATIVE LAW JUDGE DECISION</b>
	<b>OC: 10-01-06 R: 04</b> <b>Claimant: Appellant (1)</b>

Iowa Code § 96.5(1) – Voluntary Leaving

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the November 1, 2006, reference 02, decision that denied benefits. After due notice was issued, a telephone conference hearing was held on November 21, 2006. Claimant participated. Employer participated through Colleen McGuinty and Kim Woehlk. Employer's Exhibit 1 was received.

**ISSUE:**

The issue is whether claimant quit the employment without good cause attributable to the employer.

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time temporary laborer at Nestle Purina until September 26, 2006 when she was separated from the assignment but not Sedona. On September 26 the Nestle Purina coordinator told Woehlk claimant would not return to the assignment and Karen Davis, Sedona Account Manager, notified claimant to tell her only the assignment was over.

On September 27 claimant reported an allegation of sexual harassment to Woehlk about the assignment at Nestle Purina and Woehlk instructed her to fill out paperwork about the incident but she did not do so because she did not have transportation but did not advise Woehlk of this and simply demanded that Woehlk send the forms by "priority mail." Woehlk also called claimant later on September 27 and left a message for a job possibility at a different location but had no further communication from claimant. Woehlk also tried to call her to say Sedona was investigating the complaint but a friend told employer her attorney told claimant not to say anything and all communication was to go through the friend but employer cannot talk to a third party because of privacy restraints. On September 29, Woehlk called claimant and when a woman answered and Woehlk identified herself, the party hung up. There has been no other contact or information from claimant thereafter.

Sedona finished the investigation and sent a letter on October 30, 2006 telling her to give Sedona a call if she was interested in any further work. (Employer's Exhibit 1) There has been no further contact outside of the unemployment claim.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment without good cause attributable to the employer.

Iowa Code § 96.5-1 provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

871 IAC 24.25(1) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code § 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code § 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

- (1) The claimant's lack of transportation to the work site unless the employer had agreed to furnish transportation.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). An individual who voluntarily leaves their employment must first give notice to the employer of the reasons for quitting in order to give the employer an opportunity to address or resolve the complaint. *Cobb v. Employment Appeal Bd.*, 506 N.W.2d 445 (Iowa 1993). Claimant was not required to give notice of his intention to quit due to an intolerable, detrimental or unsafe working environment if employer had or should have had reasonable knowledge of the condition. *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

Claimant's failure to maintain communication with employer about the complaint, upon employer's attempt to place her in a work assignment, and her failure to respond to the October 30 correspondence is sufficient evidence to establish claimant abandoned her job. The facts do not support a good cause reason attributable to the employer for leaving the employment. Benefits are denied.

### **DECISION:**

The November 1, 2006, reference 02, decision is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such

time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

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